

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: BKY 19-40658
Chapter 7
Scheherazade, Inc.
Debtor.

**NOTICE OF HEARING AND MOTION OBJECTING TO CLAIM OF
BRINKS GLOBAL SERVICES USA, INC.
AND MEMORANDUM OF LAW**

TO: The claimant and other entities specified in Local Rules 9013-3(a) and 3007-1:

1. Nauni Manty, the chapter 7 trustee of the bankruptcy estate of the debtor, moves the court for the relief requested below and gives notice of hearing.

2. The court will hold a hearing on this motion on **Wednesday, July 15, 2020, at 9:30 a.m.**, before the Honorable Kathleen H. Sanberg, in Courtroom No. 8 West, at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota 55415.3.

3. Any response to this motion must be filed and served not later than **Friday, July 10, 2019**, which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. The petition commencing this chapter 7 case was filed on March 10, 2019. This proceeding is a core proceeding. This case is now pending before this court.

5. This motion arises under 11 U.S.C. §§ 502, Fed. R. Bankr. P. 3007, 9013 and 9014 and Local Rules 3007-1, 9006-1, 9013-1 and 9013-3.

6. Brinks Global Services USA, Inc. filed an unsecured claim of \$26,716.33. *See* Claim No. 140. A copy of the claim is attached as Exhibit A. The proof of claim form notes that the claim arises out of services performed. The trustee objects to the claim because sufficient documentation has not been provided to support the claim.

7. The claim does not include any documents to support the claim. Pursuant to the proof of claim, the person filing the claim should attach “copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. . . . If the documents are not available, explain in an attachment.” In addition, Fed. R. Bankr. P. 3001(c) provides “when a claim . . . is based on a writing, a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.”

8. It is necessary for the claimant to provide documentation to support its claim so the trustee can determine whether the claimed amount is timely, proper and asserted in the correct amount.

9. Prior to filing this motion, the trustee sent email correspondence to the filer of the claim 140 requesting documentation to support the claim. The trustee received no response. To the extent that the claimant provides sufficient documentation of the validity and timeliness of the debt, the trustee may withdraw this motion objecting to the claim.

MEMORANDUM OF LAW

A properly filed proof of claim is prima facie evidence of the validity of the claim. Fed. R. Bankr. P. 3001(f); *In re Consumers Realty & Development Co.*, 238 B.R. 418, 422 (8th Cir. BAP 1999); *In re Immerfall*, 216 B.R. 269, 272 (Bankr. D. Minn. 1998). If the objecting party brings

forth evidence rebutting the claim, then the claimant must produce additional evidence to prove the validity of the claim by a preponderance of the evidence. *Id.*; see also *Oriental Rug Warehouse Club*, 205 BR. 407, 410 (Bankr. D. Minn. 1997). Thus, “once an objection is made to a proof of claim the ultimate burden of persuasion as to the claim’s validity and amount rests with the claimant.” *Id.*

Here, the trustee is unable to determine if the claim is valid based upon the lack of proper documentation. The claim is not accompanied by supporting documentation as required by Fed. R. Bankr. P. 3001(c). If the claimant provides evidence of its claim to the trustee, the trustee may withdraw her objection.

WHEREFORE, the trustee requests that the objection to the claim of Brinks Global Services USA, Inc, claim no. 140, be sustained and the claim be disallowed in its entirety.

MANTY & ASSOCIATES, P.A.

Dated: June 11, 2020

/e/ Mary F. Sieling

Nauni Manty (#230352)

Mary F. Sieling (#389983)

401 Second Avenue North, Suite 400

Minneapolis, MN 55401

Phone: (612) 465-0990

Email: mary@mantylaw.com

Attorneys for the Chapter 7 Trustee

Fill in this information to identify the case:	
Debtor 1	Scheherazade, Inc.
Debtor 2	
(Spouse, if filing)	
United States Bankruptcy Court	District of Minnesota
Case number:	19-40658

FILED
U.S. Bankruptcy Court
District of Minnesota
6/10/2019
Lori Vosejpka, Clerk

Official Form 410 Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim		
1. Who is the current creditor?	Brinks Global Services USA, Inc., Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom?	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Brinks Global Services USA, Inc., Name 580 5th Avenue suite 400 New York City, NY 10036 Contact phone 212-704-9592 Contact email matthew.luculano@Brinksinc.com Uniform claim identifier for electronic payments in chapter 13 (if you use one):	Where should payments to the creditor be sent? (if different) Name Contact phone Contact email
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) Filed on MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing?	

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	\$ 26716.33 Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information. Invoices for services performed
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <i>Check all that apply.</i>	<p>A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.</p> <p><input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____</p> <p><input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____</p> <p><input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____</p> <p><input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies \$ _____</p>	Amount entitled to priority
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* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

Check the appropriate box:

- ☒ I am the creditor.
☐ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 6/10/2019
MM / DD / YYYY

/s/ Matthew Iuculano

Signature

Print the name of the person who is completing and signing this claim:

Name	Matthew Iuculano		
	First name	Middle name	Last name
Title	Collection Manager		
Company	Brinks Global Services USA, Inc		
Address	Identify the corporate servicer as the company if the authorized agent is a servicer		
	580 5th avenue, Suite 400		
	Number Street		
	New York, NY 10036		
	City	State	ZIP Code
Contact phone	212-704-9592		Email Matthew.luculano@brinksinc. com

VERIFICATION

I, Nauni Manty, the trustee and movant named in the foregoing notice of hearing and motion, declare under penalty of perjury that the facts contained in the foregoing motion are true and correct to the best of my knowledge, information and belief.

Dated: June 11, 2020



Nauni Manty, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: BKY 19-40658
Chapter 7
Scheherazade, Inc.
Debtor.

UNSWORN CERTIFICATE OF SERVICE

I declare under penalty of perjury that on June 11, 2020, I caused copies of the following documents to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the ECF participants:

Notice of Hearing and Motion Objecting to Claim of Brinks Global Services, USA, Inc and Memorandum of Law, Verification, Proposed Order and this Unsworn Certificate of Service,

I further declare that I caused copies of the foregoing documents to be mailed by first class mail, postage prepaid, to the following non-ECF participants:

Matthew Iuculano
Brinks Global Services USA, Inc
580 5th Ave, Ste. 400
New York, NY 10036

Scheherazade, Inc.
3181 W 69th St
Edina, MN 55435

Robert K Dakis.
Morrison Cohen, LLP
909 Third Ave
New York, NY 10022

David J Kozlowski
Morrison Cohen, LLP
909 Third Ave
New York, NY 10022

Joseph T Moldovan
Morrison Cohen, LLP
909 Third Ave
New York, NY 10022

Wells Fargo Vendor Financial Serv, LLC fka
GE Capital Information Tech Solutions
c/o a Ricoh USA Program fdba Ikon Financ
PO Box 13708
Macon, GA 31208-3708

Dated: June 11, 2020

/s/ Kevin Carnahan
Kevin Carnahan, Legal Assistant
Manty & Associates, P.A.
401 Second Avenue North, Suite 400
Minneapolis, Minnesota 55401

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: BKY 19-40658
Chapter 7
Scheherazade, Inc.
Debtor.

ORDER

This matter came on before this court on the motion of the chapter 7 trustee objecting to the claim of Brinks Global Services USA, Inc. Based upon all of the files, records and proceedings herein,

IT IS ORDERED: that the trustee's objection to the claim of Brinks Global Services USA, Inc., claim no. 140, is sustained and the claim is disallowed.

Dated:

Kathleen H. Sanberg
United States Bankruptcy Judge